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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	
	:	Case No. 2:08-CR-00586-TS
Plaintiff,	:	
	:	MEMORANDUM DECISION AND
vs.	:	ORDER OF EXCLUSION OF TIME
	:	UNDER THE SPEEDY TRIAL ACT
BRETT ALAN DIETZEL,	:	
	:	
Defendant.	:	

The defendant and plaintiff have both filed a motion for continuance and for an order excluding time under the Speedy Trial Act from August 27, 2009 through October 5, 2009. The basis for the motion to continue is for the purposes of entry of a guilty plea in the above-entitled matter and in defendant's motion to continue, that the ends of justice served by the continuance outweigh the best interest of the public and the defendant in a speedy trial.

Defendant has made a request for the matter to be set for a change of plea hearing, which request is tantamount to a motion for a hearing. The time for this hearing to review the defendant's request for change of plea is therefore subject to exclusion under the Speedy Trial Act as a motion. The resulting delay for consideration of the Court of the proposed plea agreement to be entered into by the defendant and the attorney for the Government is excludable under the Speedy Trial Act as consideration of a plea agreement.

FACTS

The parties approached the Court on August 25, 2009, and requested the matter be set for a change of plea hearing. At that time counsel for the defendant notified the Court of the defendant's desire to change his plea from not guilty to guilty. A Motion for Pre-plea Criminal History Report was also filed in preparation for that hearing. The Court has now set a change of plea hearing for October 5, 2009, at 3:30 p.m. and has ordered the Pre-plea Criminal History Report. Trial was to commence on September 9, 2009. Based upon the defendant's motion requesting a change of plea hearing, defendant's Motion for a Pre-plea Criminal History Report and pursuant to 18 U.S.C. § 3161(h)(1)(D) & (G), and (h)(7)(A), the matter is hereby excluded under the Speedy Trial Act.

THE COURT HEREBY ORDERS THAT the time from August 27, 2009 through October 5, 2009, is hereby excluded under the Speedy Trial Act pursuant to 18 U.S.C. §

3161(h)(1)(D) & (G) and (h)(7)(A). The Court also finds that under 18 U.S.C. § 3161(h)(7)(A) the ends of justice are served by the continuance and that such continuance outweighs the best interests of the public and the defendant in a speedy trial. Indeed, setting the matter for a change of plea is in the best interests of the public and the defendant. The time frame between August 27, 2009, and October 9, 2009, is a reasonable period of time to consider this change of plea and to set this matter for change of plea hearing especially considering the defendant has moved for a Pre-plea Criminal History Report to be run prior to his plea and it should take this period of time to accomplish that purpose.

DATED this 31st day of August, 2009.

BY THE COURT:



TED STEWART
U.S. DISTRICT COURT JUDGE